



**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
18840

In Re Application Of: **Herbert Kurz, et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/550,292	September 20, 2005	Unassigned	23389	Unassigned	Unassigned

Title:

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

CORRESPONDENCE ENCLOSING TRANSLATION OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT.

in the above identified application.

- No additional fee is required.
- A check in the amount of _____ is attached.
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Signature

Dated: **June 6, 2006**

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cc: LP:jy

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

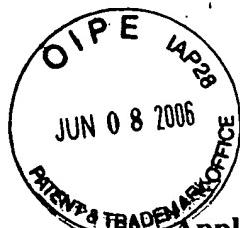
June 6, 2006

(Date)

Leopold Presser
Signature of Person Mailing Correspondence

Leopold Presser
Typed or Printed Name of Person Mailing Correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Herbert Kurz, et al.

Examiner: Unassigned

Serial No.: 10/550,292

Art Unit: Unassigned

Filed: January 10, 2005

Docket: 18840

For: AXIAL PISTON MACHINE WITH OFFSET
POSITIONING ELEMENT AND CAM DISC FOR
SUCH AN AXIAL PISTON MACHINE

Dated: June 6, 2006

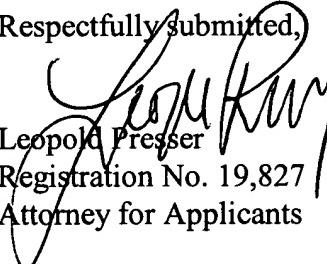
Confirmation No.: Unassigned

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CORRESPONDENCE

Sir:

Submitted herewith is a translation of the International Preliminary Examination Report, which was submitted on September 20, 2005.

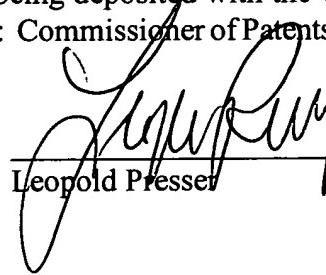
Respectfully submitted,

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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Dated: June 6, 2006


Leopold Presser

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II)
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

To:

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Mitscherlich & Partner
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TELEGRAMS
FACSIMILE

04 MAY 2006

Mitscherlich & Partner
Patent- & Rechtsschutz

Date of mailing (day/month/year) 27 April 2006 (27.04.2006)	
Applicant's or agent's file reference P27986/WO Kf	IMPORTANT NOTIFICATION
International application No. PCT/EP2004/003250	International filing date (day/month/year) 26 March 2004 (26.03.2004)
Applicant BRUENINGHAUS HYDROMATIK GMBH et al	

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

KR

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

Translation

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P27986/WO Kf	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/003250	International filing date (day/month/year) 26.03.2004	Priority date (day/month/year) 11.06.2003	
International Patent Classification (IPC) or national classification and IPC			
Applicant BRUENINGHAUS HYDROMATIK GMBH			

<ol style="list-style-type: none"> 1. This report is the international preliminary examination report established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of 4 sheets, including this cover sheet. 3. This report is also accompanied by ANNEXES, comprising: <ol style="list-style-type: none"> a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____ containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 4. This report contains indications relating to the following items: <table border="0"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI Certain documents cited</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VII Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII Certain observations on the international application</td> </tr> </table> 	<input checked="" type="checkbox"/>	Box No. I Basis of the report	<input type="checkbox"/>	Box No. II Priority	<input type="checkbox"/>	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII Certain defects in the international application	<input type="checkbox"/>	Box No. VIII Certain observations on the international application
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<input type="checkbox"/>	Box No. VIII Certain observations on the international application															

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Faxsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003250

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):
- the international application as originally filed/furnished
 the description:
 pages 1-14 received by this Authority on _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
- the claims:
 nos. 1-19 as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____
- the drawings:
 sheets 1/4-4/4 as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____
- a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:
- the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(e)).
- the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003250

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-15	YES
	Claims		NO
Inventive step (IS)	Claims	1-15	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-15	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1. An axial piston machine and a cam plate as defined in the preambles of claims 1 and 15 respectively are known from DE-A-100 30 147 (cited in the description and in the search report). DE-A-100 30 147 does not disclose a locating element mounted on the cam plate and offset with respect to the guide axis. Independent claims 1 and 15 are therefore novel.

None of the cited documents contain anything to suggest moving the cam plate laterally in order to modify the volume setting, specifically moving a locating element mounted on the cam plate.

Independent claims 1 and 15 therefore involve an inventive step.

The subject matter of claims 1 and 15 can be made and used in industry for or together with an axial piston machine.

Dependent claims 2 to 14 and 16 to 19 define preferred embodiments of the axial piston machine and cam plate of claims 1 and 15, and therefore also meet the requirements of novelty, inventive step and industrial applicability.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003250

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

2. The first part of independent claim 1 defines a first locating device with form-fitting locating elements. These are explicitly referred to in the plural ("locating elements (19a, 19b)"), yet the characterising part of the same claim specifies only one locating element (19b). This inconsistency between the two parts of claim 1 creates doubt regarding the subject matter for which protection is sought, and consequently claim 1 is not clear (PCT Article 6).